

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

FILED

SEP 24 2014

TEXAS
CLERK, U.S. DISTRICT COURT

By Deputy

United States District Court

NORTHERN DISTRICT OF

UNITED STATES OF AMERICA

V.

COMPLAINT

GUSTAVO FLORES-ORTEGA

CASE NUMBER: 3-14-MJ- 663 BK

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about September 18, 2014, in the Dallas Division of the Northern District of Texas, defendant(s),

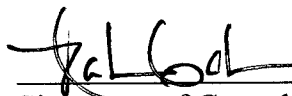
being an alien illegally and unlawfully in the United States, did knowingly possess in and affecting interstate and foreign commerce firearms, to wit, a Beretta .22 caliber pistol and a Ruger .380 caliber pistol, said firearms having been shipped and transported in interstate and foreign commerce,

in violation of Title 18, United States Code, Section(s) 922(g)(5).

I further state that I am a(n) Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and that this complaint is based on the following facts:

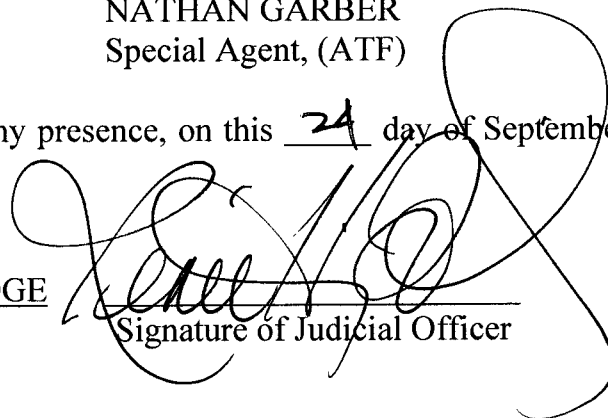
See attached Affidavit of Special Agent, Nathan Garber (ATF) which is incorporated and made a part hereof by reference.

Continued on the attached sheet and made a part hereof: XX Yes No


Signature of Complainant
NATHAN GARBER
Special Agent, (ATF)

Sworn to before me and subscribed in my presence, on this 24 day of September, 2014, at Dallas, Texas.

RENÉE HARRIS TOLIVER
UNITED STATES MAGISTRATE JUDGE
Name & Title of Judicial Officer


Signature of Judicial Officer

AFFIDAVIT

Your affiant, Nathan Garber, is a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). Your affiant has been employed with the ATF since December of 2013, and is currently in good standing with said Agency. Your affiant has attended formal training at the ATF National Academy about firearms related investigation, to include but not limited to, the issuance and execution of search warrants, utilization of cooperating individuals, firearms identification and firearms trafficking. This affidavit is based on my personal knowledge and information provided to me by other law enforcement officers who participated in this investigation. Since this affidavit is being submitted for the limited purpose of securing a complaint, I have not included each and every fact known to me concerning this investigation.

OVERVIEW

On September 18, 2014, ATF Special Agents (SAs) and Homeland Security Investigations (HSI) and Immigration and Customs Enforcement (ICE) Officers were involved in the investigation of an individual who was identified as an illegal alien in possession of firearms, in violation of 18 U.S.C. § 922(g)(5).

FACTS

On July 25, 2014, Desoto Police Department made a traffic stop on a white Cadillac and arrested the driver, G.F., for driving without a license and no insurance. The vehicle was impounded and during an inventory of the vehicle, a ROMARM/CUGIR, GP WASR 10/63 7.62 rifle, s/n 1976GS1196, was located in the trunk of the vehicle. The

rifle was placed into the Desoto Police Department property room and a trace of the rifle was completed.

A trace of the rifle revealed it was purchased on December 28, 2013, by S.U.R. I interviewed S.U.R. on August 11, 2014, and S.U.R. acknowledged buying the rifle and claimed he sold it a short time later due to monetary issues. S.U.R. said he sold the rifle to a Hispanic male he knew as "Tito." S.U.R. had advertised the rifle on Instagram, and "Tito" contacted him to purchase it. S.U.R. provided "Tito's" phone number.

I contacted "Tito" via telephone, and he agreed to a meeting at his mother's home at XXXX Caldwell Street, Dallas, TX (Caldwell Street house) on August 14, 2014. During the meeting with "Tito," he provided his name as Gustavo Flores (later confirmed to be Gustavo FLORES-ORTEGA), the older brother of G. F. FLORES-ORTEGA admitted to purchasing the rifle from Ramirez for \$400.00 within the previous two to three months. FLORES-ORTEGA explained that he kept the rifle in the trunk of the white Cadillac, where it was found on July 25, 2014, because his mother does not want guns in the Caldwell Street house. FLORES-ORTEGA also inquired about how he could get the rifle returned to him. During the interview, FLORES-ORTEGA advised that he was a citizen and national of Mexico, and that he was not in the United States legally.

After the interview of FLORES-ORTEGA, I contacted Homeland Security Investigations (HSI) SA Jesse Lara to verify the immigration status of FLORES-ORTEGA. On September 18, 2014, in furtherance of that investigation and other related immigration matters, Immigration and Customs Enforcement (ICE) officers went to the

Caldwell Street house, and sought consent to search the home for an identified criminal alien (not FLORES-ORTEGA). During an initial consensual search of the home for the identified criminal alien, .380 caliber ammunition was observed in the front bedroom, which ICE agents observed to be the bedroom of FLORES-ORTEGA.

SA Lara and ICE officers then conducted a consensual interview of FLORES-ORTEGA at the home. FLORES-ORTEGA denied that there were weapons in the home, but glanced at an area above the kitchen cabinet. FLORES-ORTEGA then granted consent to search the home for weapons. A search above the kitchen cabinet area revealed a Beretta .22 caliber pistol, s/n F2004, and a Ruger .380 caliber pistol, s/n 373-06338. Both pistols were loaded with ammunition. The search also revealed a shoe box containing two (2) 7.62 caliber magazines in the closet of the front bedroom, along with .40 caliber magazines and ammunition. Subsequently, consent to search the home was withdrawn.

FLORES-ORTEGA was confirmed to be an illegal alien, and he was then taken into ICE custody.

It has been determined that none of the above mentioned firearms were manufactured in Texas and did affect interstate commerce.

CONCLUSION

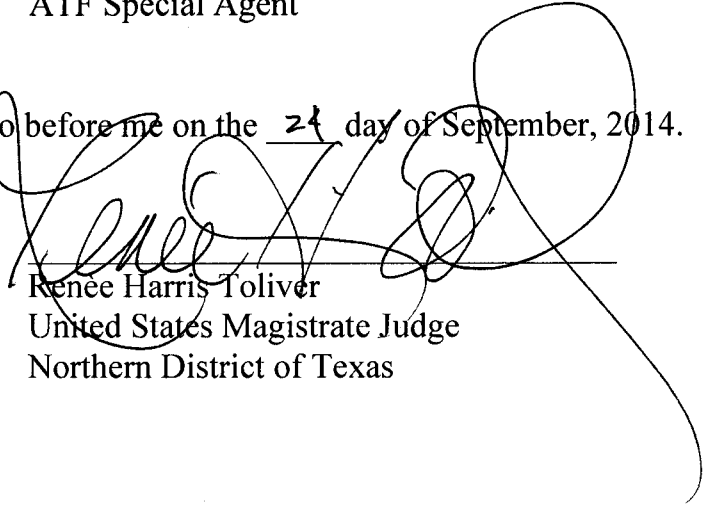
Based on the forgoing facts and circumstances, there is probable cause to believe that FLORES-ORTEGA, intentionally and knowingly committed a violation of 18 U.S.C. § 922(g)(5) for an alien, illegally in the United States, to possess a firearm in the Dallas

Division of the Northern District of Texas, and I request that the Court issue a warrant for his arrest for this offense.



Nathan Garber
ATF Special Agent

SWORN AND SUBSCRIBED to before me on the 24 day of September, 2014.



Renee Harris Toliver
United States Magistrate Judge
Northern District of Texas